UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,870	11/12/2003	Timothy Addington	43314/270278	2303

826 7590 09/19/2006	EXAMINER
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ART UNIT	PAPER NUMBER
2623	

DATE MAILED: 09/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>13 July 2006</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-130* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) *1-21 and 55-59* is/are allowed.

6)☒ Claim(s) *22-54 and 60-130* is/are rejected.

7)☒ Claim(s) *21* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments with respect to claims 22-54 and 60-130 have been

considered but are moot in view of the new ground(s) of rejection.

Claim Objections

2.   Claim 21 is objected to because of the following informalities: Lines 9-10 should

include "and" between the limitations "message" and "transmitting". Appropriate

correction is required.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter, which the applicant regards as his invention.

Claim 1 recites the limitation "host file" in Line 21. There is insufficient

antecedent basis for this limitation in the claim. The limitations should read "host

protocol file".

Claim 21 recites the limitation "a first interface" in Line 3. The claim is indefinite

because "a first interface" has been recited in Line 2 and the examiner cannot

determine if Applicant intended to further recite the same first interface or a different

interface. The limitations should read "the first interface" or "a second interface". For

the remainder of this Office Action the examiner will interpret the limitation as, "the first

interface".

Claim 85 recites the limitation, "the processor" in Line 19. There is insufficient

antecedent basis for this limitation in the claim. The limitations should read "a

processor".

Claim 101 recites the limitation, "the cable headend" in Line 4. There is

insufficient antecedent basis for this limitation in the claim. The limitations should read

"a cable headend".

The examiner strongly recommends reviewing the remaining claims for any other

112 2nd Paragraph issues.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by
another filed in the United States before the invention by the applicant for patent or (2) a patent
granted on an application for patent by another filed in the United States before the invention by the
applicant for patent, except that an international application filed under the treaty defined in section
351(a) shall have the effects for purposes of this subsection of an application filed in the United States
only if the international application designated the United States and was published under Article 21(2)
of such treaty in the English language.

4.   Claims 22-25, 27-32, 34-37, 39-44, 45-48, 50-52, 54, 60, 62-63, 65-67 and 70-

74, 87-90, 93-101, 103-104, 106-119, 121-124, 126 and 128-130 are rejected under 35

U.S.C. 102(e) as being clearly anticipated by Dal Canto et al. (U.S. Patent Application

Publication 2003/0217166).

Referring to claim 22, Dal Canto discloses an enhanced services system (see

Figure 1) comprising a processor having a first interface (see NOC 200 in Figure 1,

which has multiple interfaces 230, 220, 240, 225 and 210), the processor capable of

receiving an activation message (see Paragraph 0044, Lines 4-9), the processor

capable of retrieving a host protocol file using a first interface in response to the

activation message by ascertaining a host type associated with the activation message

(see Paragraph 0048, Lines 3-9), wherein the host protocol file comprises a plurality of

configuration commands (see Paragraph 0048 for the client profile containing attached

peripheral devices information) and associated host protocol data (see Paragraph 0048

for the client profile containing geographic location and network location information),

each configuration command pertaining to an operation capable of being performed in a

host (the examiner notes that a controllable peripheral device list that can be controlled

are operations that can be performed by a host device), the processor capable of

selecting one of the host protocol data and deriving a host specific protocol

configuration message (see Paragraph 0048, Lines 9-15 for connecting to the host

based on the client profile information) and transmitting the host-specific protocol

configuration message to the host using a second interface (see Paragraph 0049),

wherein the host protocol data is used by the processor to derive the host-specific

configuration message (see again Paragraph 0048, Lines 9-15).

Dal Canto further discloses a memory storage operatively connected to the first

interface (see client database 240), capable of storing the host protocol file comprising

the host protocol data (see Paragraph 0048, Lines 3-4), the host protocol file associated

with the host type (see Paragraph 0048 for the client profile containing a client device

type field) and the configuration command associated with a service identifier (see

again Paragraph 0048 for the attached peripheral devices information, which is

associated with the types of services that the host device is capable performing and

therefore associated with a service identifier), the memory storage further capable of

storing an association between a host address of the host and the host type (see

Paragraph 0048 for the client profile containing both the device type and network

address of the host device), the memory storage further capable of providing the host

protocol file to the processor in response to a request from the processor (see again

Paragraph 0048, Lines 3-4).

Referring to claims 23-25, 27-32 and 34-37 and 39-44, see the rejection of claims

22 and further note Paragraphs 0030-0042 for the different types of network

connections and device types that are supported by the provisioning system.

Referring to claims 45-48, 50-52 and 54, see the rejection of claims 22-25, 27-32,

34-37 and 39-44.

Referring to claims 60, 62-63, 65-67 and 70-74, see the rejection of claims 22-25,

27-32, 34-37 and 39-44.

Referring to claims 87-89, see the rejection of claims 22-25, 27-32, 34-37 and

39-44.

Referring to claims 90, 93-101 and 103-104, see the rejection of claims 22-25, 27-32, 34-37 and 39-44.

Referring to claims 106-112, see the rejection of claims 22-25, 27-32, 34-37 and 39-44.

Referring to claims 113-117, see the rejection of claims 22-25, 27-32, 34-37 and 39-44.

Referring to claims 118-119, 121-124, 126 and 128-130, see the rejection of claims 22-25, 27-32, 34-37 and 39-44.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 26, 33, 38, 49, 53, 61, 64, 68-69, 75-86, 91-92, 102, 105, 125 and 127 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dal Canto et al. (U.S. Patent Application Publication 2003/0217166).

Referring to claim 26, Dal Canto discloses all of the limitations of claim 22, but fails to teach that the activation message includes a transaction reference number identifying a previously indicated provisioning transaction.

The examiner takes Official Notice to the fact that service activation messages in provisioning system include reference numbers of previously indicated transactions. For example, provisioning system use such messages in order inform the provisioning server that the client has been previously activated or deactivated based on lack of payment or various other reasons.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the provisioning system, as taught by Dal Canto, to include the transaction reference number in the activation messages, for the purpose of allowing a provisioning system to accurately bill a client according to services previously ordered.

Referring to claim 33, Dal Canto discloses all of the limitations in claim 30, but fails to teach sending the host-specific protocol message using a DOCSIS based channel.

The examiner takes Official Notice to the fact that DOCSIS is a known standard used in communicating various types of data is a cable network.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the channel used to transmit the host-specific protocol message to the host, as taught by Dal Canto, using a DOCSIS channel, for the purpose

of allowing multiple host interface devices to perform a ranging process that preserves

bandwidth between multiple cable modems requesting data simultaneously.

Referring to claim 38, Dal Canto discloses all of the limitations in claim 22, but

fails to teach a billing system operatively connected to the processor capable of

receiving a second provisioning message comprising the host address and an indication

that the host-specific protocol message was transmitted to the host.

The examiner takes Official Notice to the fact that a billing system can be

informed by a provisioning system as to what services has been provided to a host.

At the time the invention was made, it would have been obvious to a person of

ordinary skill in the art, to modify the provisioning system, as taught by Dal Canto, to

include a billing system, for the purpose of properly charging the client for the services

ordered by the client.

Referring to claims 49 and 53, see the rejection of claim 38 and note that it is

further obvious for a billing system to send a billing code from the billing system to the

provisioning system in order for the user to properly received and charged for a specific

service.

Referring to claim 61, see the rejection of claims 38, 49 and 53.

Referring to claim 64, Dal Canto discloses all of the limitation of claim 60, but

fails to teach that the host protocol data comprises XML data.

The examiner takes Official Notice to the fact that an XML file can be used to provision a client device.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the host protocol file, as taught by Dal Canto, using an XML format, for the purpose of providing host protocol file with a generic format that can be processed by any number of different client devices.

Referring to claim 68, see the rejection of claims 38, 49 and 53.

Referring to claim 69, see the rejection of claim 33.

Referring to claims 75-77, see the rejection of claims 38, 49 and 53.

Referring to claims 78-86, see the rejection of claims 22-44.

Referring to claims 91-92, see the rejection of claims 38, 49 and 53.

Referring to claim 102, see the rejection of claim 26.

Referring to claim 105, see the rejection of claim 33.

Referring to claim 120, see the rejection of claims 38, 49 and 53.

Referring to claims 125 and 127, see the rejection of claim 33.

Allowable Subject Matter

6.   Claims 1-21 are allowed.

The following is an examiner's statement of reasons for allowance:

Referring to independent claim 1, the prior art of record fails to anticipate or

rendered obvious the combined elements/steps of "*a processor capable of receiving*

provisioning data using a first interface, the provisioning data including a service

identifier and a subscriber, the processor capable of using the subscriber identifier to

ascertain the host type indicating a manufacturer and a model of the host, the processor

capable of retrieving the host protocol file associated with the host type using a second

interface", in conjunction with "*the processor capable of transmitting the respective host-*

specific protocol provisioning message to the host using a third interface", as recited in

the claims.

Any comments considered necessary by applicant must be submitted no later

than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on

Statement of Reasons for Allowance."

The examiner notes that in addition to the reasons stated by the Applicant in the

Applicant's arguments, Donlan, McKeown and Makofka all fail to teach the specific type

of host protocol file, as well as the specific method of processing the host protocol file to

produce the host-specific protocol-provisioning message using all three interfaces. The

examiner further notes that Dal Canto teaches only two interfaces, one between the

client device (the host, which sends the host protocol file) and the NOC and the second

between the client database 240 and the Meta-Desktop service module 220, therefore

only teaching two interfaces and therefore teaching away from independent claim 1,

because the second interface is used to not only receive the host protocol file, but is

also used to transmit the host-specific provisioning message from the processor to the

host.

7.   Claims 55-59 are allowed.

        The following is an examiner's statement of reasons for allowance:

        Referring to independent claim 1, the prior art of record fails to anticipate or

rendered obvious the combined elements/steps of "*a server receiving a host protocol*

file", in conjunction with, "*the server receiving a host profile file comprising feature*

descriptors", in conjunction with, "*the server displaying to a user the feature descriptors*

from the host profile file, receiving user input, and processing the server data file, the

user input, and the host protocol file to produce at least one host-specific protocol

configuration message", as recited in the claims.

        Any comments considered necessary by applicant must be submitted no later

than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on

Statement of Reasons for Allowance."

The examiner notes that in addition to the reasons stated by the Applicant in the

Applicant's arguments, Donlan, McKeown and Makofka all fail to teach the specific type

of host protocol file, as well as the specific method of processing the host protocol file to

produce the host-specific protocol-provisioning message using all three interfaces. The

examiner further notes that Dal Canto teaches only a client profile, not a client profile

and a host protocol file.

Conclusion

8.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time
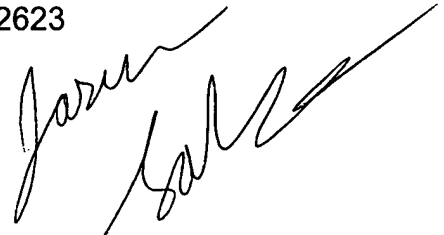
policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

9.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Jason P. Salce whose telephone number is (571) 272-

7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason P Salce
Primary Examiner
Art Unit 2623

September 14, 2006